

# W P I N V E S T M E N T S

November 26, 2003

<u>Via Fax and Registered Mail</u> Certified Mail Receipt #7003 1010 0002 9640 8474

Mr. James Lindsay CITY OF MILPITAS 455 East Calaveras Blvd. Milpitas, CA 95035-5411

RE: Proposed Conditional Use by Korean Church of San Jose at Fleming Business Park

Dear James,

I have recently been informed that the Korean Church of San Jose intends to move forward with their Conditional Use Application, for the three buildings on the Montague Expressway frontage immediately adjacent to the Fleming Business Park project. As I believe you are aware, I previously called Tambri Heyden and mentioned several concerns that Fleming Business Park LLC (owner of the adjoining 56 acre Fleming Business Park) has with the proposed use of these three buildings by the Church. We also met with the Church's Pastor and agents directly to personally discuss our concerns, and the Church's plans. The issues that we discussed in that meeting are addressed in the attached letter, which we directed to the Church's agents on November 12, 2003.

I would appreciate it if you would have the appropriate departments at the City review Fleming Business Park LLC's concerns regarding the proposed Church use of these three buildings, and take them into consideration when developing the City Staff's recommendations. Please do not hesitate to call with any questions you may have. I hope you are doing well!

Sincerely,

WP INVESTMENTS

Agent for Fleming Business Park LLC

David Denton

DD:lh Encl.

C:Dave4/Lindsay



# WPINVESTMENTS

November 12, 2003

Via Fax and Regular Mail

Mr. David Mein COLLIERS INTERNATIONAL 450 W. Santa Clara Street San Jose, CA 95113

RE: Korean First Baptist Church/Your Letter of November 7, 2003

Dear David,

Thank you for your letter of November 7, 2003 (and also for taking the time to introduce us to your client) regarding the Korean Church of San Jose's interest in purchasing property at the Fleming Business Park location. Your letter mentions two concerns, but there were actually four issues we discussed, which we believe should be considered, regarding the proposed Church occupancy of three of the four buildings at the frontage of the park. These issues are as follows:

- (1) Truck Traffic: Back in 1999, Parsons Transportation documented that approximately 200 large trucks exit or enter the park during a 6:00 am 6:00 pm business day. Based on your client's explanation that the Church would only be using the facility on Wednesday evenings, Saturday evenings, and on Sundays, the amount of truck/churchgoer interaction is likely to be substantially reduced. However, the Fleming Business Park ownership has no control whatsoever over the timing of when trucks enter and leave the Park. Accordingly, we believe the Church and the City should definitely consider the scenario whereby Church families are regularly walking across the main entryway to the much larger industrial park, while large truck traffic is entering and leaving the park through that same entryway. As we discussed, a crossing light within the park is not an option, due to County and City Traffic concerns about the possible backup impact on the Montague Expressway Intersection.
- (2) Airborne Toxic Release Upwind: Prior to obtaining our approvals for the development of the Park, the City of Milpitas Planning and Fire Department both expressed significant concern regarding developing high occupancy buildings on the Montague Expressway frontage. Their concerns were well documented in the Environmental Impact Assessment filed November 21, 1996 and related Risk Assessment prepared and accepted by the City during project approvals. The two department's primary concern was, because most of the much larger 400+ acre industrial park to the north of the Fleming

Mr. David Mein November 12, 2003 Page 2

h F Business Park is zoned M-2 heavy industrial, there were, and still may be, a number of uses directly upwind, which could potentially have uncontrolled/accidental toxic airborne emissions. If this were to occur, and if the prevailing wind for the area was blowing, then this toxic emission would drift over these new high occupancy buildings, putting their occupants at risk. As part of the Park's conditions of approval, the City required several mitigation measures, one of which included developing and distributing an Emergency Action Plan, whereby each Tenant is provided with information on how to deal with the risks of some type of airborne toxic release, along with other natural disasters (earthquake, fire, flooding, etc.). These Emergency Action Plans are provided to the Fleming Business Park tenants, with the direction that they are to educate their own employees to the potential risks, and have a preparedness plan in place. We feel that the church should be particularly concerned about this issue, given that we believe that it is practically impossible to make sure that all of the parishioners and their children are educated and prepared, if an emergency were to arise.

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For your information, the prevailing wind in the Milpitas area blows from the northwest; particularly in the afternoons and early evenings.

- (3) <u>Ammonia Cooled Facility On-site at Fleming Business Park:</u> One specific building in the Fleming Business Park is an ammonia cooled freezer/cooler facility. This facility carries a similar risk of an accidental airborne toxic release, but is much closer to the buildings that the Church is considering.
- (4) Long-term Incompatibility of M-2 Uses and a Church Use: As the manager and part-owner of the 1,211,000 sq. ft. Fleming Business Park project, we are concerned about the long term ramifications of having a substantially different use (a Church or school for example) on the frontage of our larger M-2 zoned park, and of course on both sides of the major entryway to the park. Right now, while the Church is anxious to find a new home and the price for the available buildings is significantly below replacement cost, there are a number of conditions that the church might be willing to accept, or circumstances that the church might be willing to overlook. After the Church is in occupancy for a period of time, it would not be surprising for the Church's officers and membership to, on occasion, object to uses which would normally be considered acceptable in the M-2 heavy industrial zoning.

For these reasons, we believe that the Church's intended use of Buildings B, C and D of the Fleming Business Park property is not compatible with the current use of the adjacent properties leased by the tenants of Fleming, and presents significant health and safety issues, which are of concern to us, and should be of concern to the Church. In concluding our meeting, we acknowledged the Church's need to find a

Mr. David Mein November 12, 2003 Page 3

suitable location for its parish, and briefly discussed alternatives to this site. We believe that there are many other more suitable alternatives for the Church in other parts of the valley, even in some areas which are zoned light and heavy industrial.

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If, after considering the issues we've raised, the Church continues to be interested in finding a site in this immediate area, one possibility would be the 4.6-acre site located at 985 Montague, which is owned by the principals of WP Investments. Purchasing this property, in conjunction with the purchase of Buildings A and B from South Bay, might make more sense as a new Church complex. The following are the particulars relating to the 985 Montague property: 985 Montague is a 4.6 acre M-2 zoned parcel immediately adjacent to the parcel upon which buildings A and B of the Fleming Business Park are located. The ownership of the 985 Montague site has recently processed City development rights to build up to 80,000 sq. ft. of two-story R&D buildings at the 985 Montague location (subject to obtaining building permits), but, because of the current market conditions, are delaying any new development of the site. We have also been offering this site for lease, or for sale.

With regard to pricing of the 985 Montague property, over the past year or so there has been substantial interest from residential developers, and general support by the City, for the re-zoning of two, three, or perhaps even four large industrial parcels, directly across Milpitas Boulevard from the 985 Montague site, from industrial to residential. One of those four parcels is currently in escrow, and another site is inserious negotiation, at prices approaching \$40 per sq. ft. With this information, and being in no hurry currently to proceed with the development of the 985 Montague site, we have priced our site for sale at what we believe is a reasonable \$33 per sq. ft.

The reasons we believe that it might make some sense for the Church to actively consider purchasing Building B of the South Bay property, which we understand is currently in escrow to the Church, Building A of the South Bay property, and the 4.6 acre 985 Montague site are, because consolidating the Church use on those two parcels significantly reduces several of our (and what we believe should be the Church's) concerns. First, the parcel upon which Buildings A and B are located retains the right to a curb cut on Montague Expressway. The 985 Montague site has two additional curb cuts on Montague Expressway. Accordingly, the Church could close off the driveway openings on Montague Court, and have all Church traffic enter off of Montague Expressway directly in front of Building B (right turn in and right turn out only), then drive around Buildings A & B and then exit from the 985 Montague site. This eliminates the Truck Traffic issue entirely. Secondly, the 985 Montague site also provides the Church with the opportunity to build a new chapel/church to their own specifications, free of any CC&R limitations and the significant retrofit costs inherent to modifying a two-story R&D/office building into a church. The 985 Montague site also provides the possibility for a field for Church events and activities.

Mr. David Mein November 12, 2003 Page 4

Thirdly, by taking this more westerly location, concerns relating to the ammonia facility on the Fleming site, and other M-2/H occupancy sites further north in the greater industrial park, should be substantially reduced. As mentioned earlier, the prevailing wind in the area blows from the northwest, and the consolidation of Buildings A and B, plus the 985 site, is not as directly downwind as the property currently being considered by the Church, so this alternative location is not as likely to be impacted by an airborne toxic release.

Finally, though it is unlikely that the Fleming Business Park ownership can be convinced that the establishment of a church on a significant portion of the main frontage of the industrial Fleming Business Park is a positive event for the industrial users behind the proposed Church use, we believe that, by focusing the Church's presence on the corner of Milpitas Boulevard and Montague Expressway, and maintaining the current appearance of Buildings A and B (as required by the CC&Rs), the negative impact to the Fleming Business Park would be substantially reduced.

Your letter suggests that you thought the 985 Montague pricing was "... a little too rich for the Church." Based on what we have seen in the past regarding the value of Montague Expressway frontage, and the higher prices which residential developers are now prepared to pay for much less prominent residentially zoned property directly across the street, we respectfully disagree that \$33/sq. ft. is too rich. Having said that, you may recall that we inquired of the pastor as to whether or not the Baptist Church was a charitable entity, and he confirmed that they were. Subject to approval by our tax accountant, and after obtaining an appropriate appraisal, we've been told that the 985 Montague ownership entity could reduce the purchase price to some extent, and take that reduction as a charitable donation to the church. If you would like to explore that further with us, we would be happy to continue discussions with you and your client.

Please don't hesitate to call if you have any questions, or need any additional information regarding the concerns we discussed in our meeting.

Sincerely,

WP Investments

David Denton

Planning Manager James Lindsey City of Milpitas City Hall 455 East Calaveras Boulevard Milpitas, CA 95035

Re: Korean First Baptist Church/995, 1201 and 1225 Montague Expressway

Dear Planning Manager Lindsey:

D. V. Bunky

I am a resident of the City of Milpitas and a parishioner of the Korean First Baptist Church. The Koreau First Baptist Church has the largest congregation following in the Bay Area and has been in existence for twenty three years. Currently the church is located at 2500 Senter Road in the City of San Jose. In an attempt to accommodate its strategic goals the church has agreed to sell its property to the County of Santa Clara. As a result of this transaction, the Korean First Baptist Church has identified the development located at 995, 1201 and 1225 Montague Expressway in the City of Milpitas as a potential new site for the church.

The church has submitted an application for a Conditional Use Permit. We request your consideration regarding our request for City of Milpitas approval.

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CITY OF MILPITAS PLANNING DIVISION

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Planning Commissioner Paul Hay City of Milpitas City Hall 455 East Calaveras Boulevard Milpitas, CA 95035

Re: Korean First Baptist Church/995, 1201 and 1225 Montague Expressway

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Dear Planning Commissioner Hay:

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Planning Commissioner Debra Glordano City of Milpitas City Hall 455 East Calaveras Boulevard Milpitas, CA 95035

Re: Korean First Baptist Church/995, 1201 and 1225 Montague Expressway

Dear Planning Commissioner Giordano:

I am a resident of the City of Milpitas and a parishioner of the Korean First Baptist Church. The Korean First Baptist Church has the largest congregation following in the Bay Area and has been in existence for fifteen years. Currently the church is located at 2500 Senter Road in the City of San Jose. In an attempt to accommodate its strategic goals the church has agreed to sell its property to the County of Santa Clara. As a result of this transaction, the First Korean Baptist Church has identified the development located at 995, 1201 and 1225 Montague Expressway in the City of Milpitas as a potential new site for the church.

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# Conditional Use Permit Korean Baptist Church

995, 1201 & 1225 Montague Expressway Milpitas, California 95035

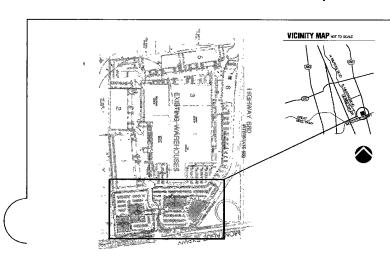
Conditional Use Permit 10/2902003

ARCITEC, INC.

© 2003

CALIFORNIA
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SANTA CLARA, CA 95054
P: 408-496-0676
F: 408-496-1121

ARIZONA
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BUILDING C
PHOENIX, AZ 85028
P: 602-953-2355
F: 602-953-2988



DRAWING INDEX

DISCIPLINE

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ARCHITECTURAL

ACC SUPPLINE

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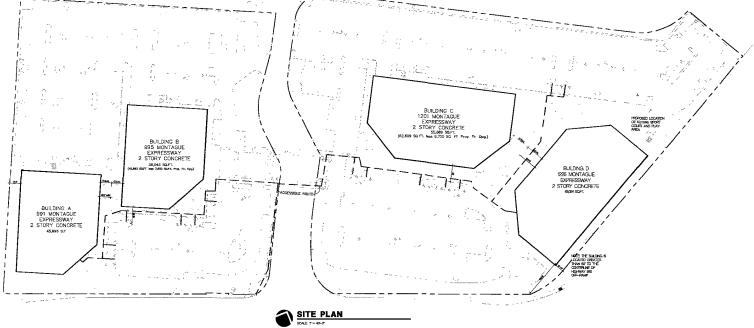
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CITY OF MILPITAS PLANNING DIVISION

031179





Existing P	arking Re	quirement	s	
	A 991 45,000 SF	B 995 500 3F	C 1201	D 1225
SITE AREA.	1000B SF	17,001 SF	152940 SF	122,906 SF
ACTUAL FAR	2002 %	39,72 %	4094 %	4022 %
ALLOWED FAR	409 W	409 %	432 %	612 W
PAFFONG REC	NAME OF			
Standard	192	200	266	
HANDIGAPPE	>			
CARR	5		6	6
VANS	1_	_1_	_1_	1_
TOTAL.		- 6		
PARKING PIK				
STANDARDI COMPACT	-8	107 65	143	163 109
HANDICAPPI	ED.			
CARS	4_	5	6	6
VANS	2		_1_	1_
	6	6	7	7
TOTAL-	189	166	260	29
TOTAL PARK	MG PROVIDED	898 SPACES	-	
MOTORCYC	ID: 3	0	D	5

	A 991 4000 SF	B 995 4903 SF	C 1201 *******	D 1225 63724 85
NTEAREA.	1777/8 SF	17,081 3F	12940 SF	T2200 SF
FAR	36.005 #6	39.02 %	4094 %	402 m
PARKING REQUIRED				
Standard	152	10 594	300 (3824)	B4 (219+
HANDICAPPED				
CARE		5	e	6_
VANS	1_	_ 1	1	,_
TOTAL	8	8	7	
PARIONG PROVIDED- STANDARD/ COMPACT	17	17	#3 TD	143 100
HANDICAPPED				
CARR	4	5	6	6
VANS	2	1	1	
	- 6	6	7	7
TOTAL-	193	188	260	259
TOTAL PARKING PROV	IDED- 890 SPACE	8		
(MOTORCYCLE):	3		9	5
+ INDICATES PARKING SMULTANEOUSLY OCC DOCUPANT LONG OF OCCUPANCY LONG OF T	SANCTUARY AT M	REQUIREMENT S	TY SEATING, THE	QN

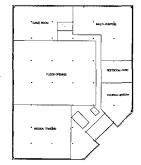
	Three	Building	Activity	Occupance
		/	PARAMA .	WALKELING.
Donday			-	-
tio Activity		-		
		+	-	+
Tuesday		<del>-</del>	-	· · · · · · · · · · · · · · · · · · ·
	24m - 6pm	10	Administration	21 Kruzi
	FEM - 0 P 11		AD TENSOR	23 Metals
Wednesday		1		
	9am -6pm	0	Administration	20 Adulta
	790 p.m = 9 p.m	c	Church Service	420 Aducs
	790pm -9pm	3	Chusch Service	1 05 - K 2
				1
Thursday			1	
	9ам – брт	ć	Admiratistico	20 Adults
				:
Friday		$\overline{}$	_	
	9 s.m - 6 p.m	6	Asmoutation	27 Adults
	7.30 pm + 2 p.m	c	Study Classes	150 Asuks
		٥	Study Classes	450 Adults
	730 pm ~9 pm	10	Stady Chases	150 - K-12
Saturday		<del></del>	<u> </u>	
	28 m - 5 p.m	+c	, Administration	20 Acuts
	9s.m - 6p.m	18	Vanous	200 500 Adulta
Sandar		-	1	
	Sam-Sam	9	Verious	*50 + K 12 / AGAS
	10:00 aur - 11 00 pur	10	Church Service	1100 - 1500 Asura
	10/00 в.л. – 11 00 р.л.	13	Church Service	. 520 - K-15
	11.00 a m = 2.00 p m	0	Study Classes	250 Agus
		lo	Study Classes	500 Advis
	11/00 AM - 3 00 p m	0	Study Classes	2531 - 16-12

		Summary of Pi	roposat							
Roquest 6	or Condition	nal Use per Socie	n 31. Articio	31 03,41 Churches						
cdress	995 1201	1225 Mordague Ex	coreseway							
ny Jurisdiction	City of Milt	City of Mitpeas								
P.N	086-31-056	8-59								
loning	N2									
ond/tone/ Use	Criurch									
xusting Use	Vacant									
ite Area	9.7 Acres									
ze of Development	Blog B	38,043 mg T	2 stores	(Exering Gross striding loss the proposed Soc- opening of 7 550 SF)						
	Blog C	65 889 sq. ft.	2 scores	(Existing Gross building assithe proposed fool coarsing of 6,720 SF)						
	Blog. D	63 024 sq ft	2 stones	cperguarana,						

STEPLAN AND NOTES D31179

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NOTE FLOW LAYOUTS ARE CONCEPTUAL ONLY PROGRAM SUMMER FLOOTAGE ARE THE REQUESTED FLOOR AREAS FOR EACH PROGRAM USE



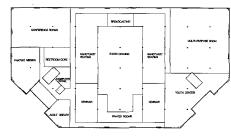
# BUILDING B SECOND FLOOR 995 MONTAGUE EXPRESSWAY

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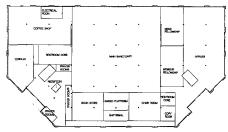
#### BUILDING B FIRST FLOOR

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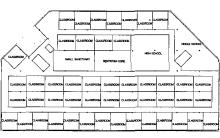
# BUILDING C SECOND FLOOR 1201 MONTAGUE EXPRESSWAY

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Floor Garnering		6.720	-	6.3		
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## BUILDING C FIRST FLOOR

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# BUILDING D SECOND FLOOR 1225 MONTAGUE COURT

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## BUILDING D FIRST FLOOR

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